IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5656 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KACHARABHAI GOVINDBHAI PARMAR

Versus

CHAIRMAN, SHREE SHAKTIVIJAY CO-OP HOUSING SOC. LTD

Appearance:

1. Special Civil Application No. 5656 of 2003

MR RE VARIAVA for Petitioner No. 1

MR SA DESAI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 13/12/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition challenged the order dated 5th March, 2003, passed by the Gujarat State Co-operative Tribunal, Ahmedabad on stay

application, being Appeal No. 152 of 2003.

2. The short facts of the case as they emerge from the record of the petition are that the petitioner is the member of the respondent Society and with the permission of the respondent Society had constructed the floor above the tenement in the staircase margin land. The petitioner has submitted that the respondent Society filed a Suit being Lavad Suit No. 173 of 2002 before the Registrar, Board of Nominees, Ahmedabad for removal of the construction made by the petitioner. However, to the said Lavad Suit, the petitioner had filed his reply. The petitioner further submitted that the Registrar, Board of Nominees Court, vide order dated 29th January, 2002 allowed the Lavad Suit, whereby the Court has ordered to remove the unauthorized construction in the margin land of the petitioner.

2.1. Being aggrieved by the said order, the petitioner preferred an appeal being Appeal No. 152 of 2002 before the Gujarat State Co-operative Tribunal, alongwith stay application, whereby the Tribunal had granted stay in favour of the petitioner. The petitioner submitted that thereafter the same was extended from time to time. The petitioner has further submitted that on 5th March, 2003, the Tribunal had vacated the stay granted earlier and did not extend the stay beyond 16th April, 2003. The petitioner further submitted that though he had made several applications for extension of stay, the same was rejected, Hence, this petition.

3. I have heard the learned advocates for the respective parties and have perused the relevant record. It appears that while admitting this matter on 29th April, 2004, this Court had granted ad-interim relief in terms of para 10 (B). However, on the facts and circumstances of the case, I am of the opinion that ends of justice will be served, if the Tribunal is directed to hear the appeal within stipulated period of time. Accordingly, it is directed that the Tribunal shall hear and decide the Appeal in accordance with law, within a period of six months from today, if it is not heard so far. Further the stay granted by this Court, shall continue till the final disposal of the Appeal.

4. With the above observations and directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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